

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of

TANAKA et al

Appn. No. 08/522,085

Group Art Unit 1102

Filed: August 31, 1995

Examiner: T. Tung

Title: OXYGEN CONCENTRATION DETECTOR

DECLARATION

Hon. Commissioner of Patents

and Trademarks

Washington, D.C. 20231

Sir:

Now here come Akio Tanaka, Naoto Miwa, Toshitaka Saito, Hiromi Sano, Kazunori Suzuki and Masaya Fujimoto who declare and say that we are the Inventors of the subject matter disclosed and claimed in U.S. Patent Application No. 08/522,085, filed August 31, 1995 and titled OXYGEN CONCENTRATION DETECTOR; that our original application for a United States patent incorporated by reference our Japanese Patent Application No. 6-234387, filed September 1, 1994, and our Japanese Patent Application No. 6-340136, filed December 28, 1994 by the statement incorporated on page 1 of that application; and that we have reviewed the Amendment Under Rule 1.116, filed February 11, 1997, which amended the disclosure of our '085 application to include material incorporated by reference. The amendatory material consists of the same material incorporated by reference in our '085 application as filed.

I hereby declare that all statements made herein by my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Akio Tanaka  
Akio Tanaka

April 2, 1997  
Date

Naoto Miwa  
Naoto Miwa

April 8, 1997  
Date

Toshitaka Saito  
Toshitaka Saito

April 8, 1997  
Date

Hiromi Sano  
Hiromi Sano

April 2, 1997  
Date

Kazunori Suzuki  
Kazunori Suzuki

April 8, 1997  
Date

Masaya Fujimoto  
Masaya Fujimoto

April 2, 1997  
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
REQUEST FOR FILE WRAPPER CONTINUING APPLICATION UNDER 37 CFR 1.62

(RULE 62)

## For Design or Utility Applications

BOX FWC

The Hon. Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

Sir:

This is a RULE 62 Request for filing from  
prior copending parent Application No. 08 /522,085  
series code ↑ ↑ serial no.

Prior Application: 08/522,085

Group Art Unit: 1102

Examiner: Tung, T.

Atty Dkt: 235648 / 41897-US-CON

new M# / Client Ref.

(Our Deposit Account No. 03-3975

(Our Order No. 30954 /235648

C# / new M#

Date: April 11, 1997

[ ] divisional

[XX] continuation ( Exr. NOTE: any election in parent as to species/restriction requirement:

[ XX] is carried over with traverse) [ ] is not carried over)

[ ] continuation-in-part without new Declaration (Rule 53(d)) [ ] without fee

[ ] continuation-in-part (with new Declaration attached hereto)

The parent was filed on August 31, 1995, entitled OXYGEN CONCENTRATION DETECTOR

by the following named inventor(s) who is/are [ XX] the same as, [ ] less than all of (see Item 17),

[ ] more than (for CIP only), those named in that parent application:

1. Inventor AKIO TANAKA JAPAN  
First Middle Initial Family Name Country of CitizenshipResidence (City) Obu (State/Foreign Country) JAPAN JPPost Office Address 7-4 Nadaka, Yokone-cho, Obu-city, Aichi-pref., JAPAN

(include Zip Code)

2. Inventor NAOTO MIWA JAPAN  
First Middle Initial Family Name Country of CitizenshipResidence (City) Tsushima (State/Foreign Country) JAPAN JPPost Office Address 111 Higashi, Kabuto-cho, Tsushima-city, Aichi-pref., JAPAN

(include Zip Code)

3. Inventor TOSHITAKA SAITO JAPAN  
First Middle Initial Family Name Country of CitizenshipResidence (City) Toyohashi (State/Foreign Country) JAPAN JPPost Office Address 114 Hanadaichiban-cho, Toyohashi-city, Aichi-pref., JAPAN

(include Zip Code)

4. Inventor HIROMI SANO JAPAN  
First Middle Initial Family Name Country of CitizenshipResidence (City) Nagoya (State/Foreign Country) JAPAN JPPost Office Address 2-281 Chugo, Nakagawa-ku, Nagoya-city, Aichi-pref., JAPAN

(include Zip Code)

5. Inventor KAZUNORI SUZUKI JAPAN  
First Middle Initial Family Name Country of CitizenshipResidence (City) Nagoya (State/Foreign Country) JAPAN JPPost Office Address 40 Nakanokiri, Shimonoishiki-cho, Nakagawa-ku, Nagoya-city, Aichi-pref., JAPAN

(include Zip Code)

6. Inventor MASAYA FUJIMOTO JAPAN  
First Middle Initial Family Name Country of CitizenshipResidence (City) Kariya (State/Foreign Country) JAPAN JPPost Office Address 39-1 Shim kasu, Hit tsugi-cho, Kariya-city, Aichi-pr f., JAPAN

(include Zip Code)

NOTE: FOR ADDITIONAL INVENTORS, check box [ ] and attach sheet (CDC-110A) with same information for each  
inventor starting with inventor No. 6 and number new page 1A.

1. **Requirement of Rule 62:** Rule 62 filings are to be used only when the issue fee has not been paid (except as noted below) in the above-identified prior application nor that application abandoned or its proceedings terminated. This Rule 62 filing will be considered by the PTO as an express abandonment of that prior application except when this Rule 62 filing is pursuant to Rule 313(b)(5), i.e., when the issue has been paid in the prior application and a petition filed to abandon that application to permit an IDS to be considered in this Rule 62 application. (Note: 37 CFR 1.53 (Rule 53) may be used for continuations and divisions where the prior application is not to be abandoned.)

2.  The issue fee has been paid in the parent, but this Rule 62 Request follows a Rule 313(b)(5) petition, and per 1138 OG 40 waiver is respectively requested of that part of Rule 62 which prohibits use of the rules to file an FWC after payment of the issue fee.

3.  Priority is claimed under 35 U.S.C. 119/365 based on filing in JAPAN of:  
(country)

| <u>Application No.</u> | <u>Filing Date</u>       | <u>Application No.</u> | <u>Filing Date</u> |
|------------------------|--------------------------|------------------------|--------------------|
| (1) <u>06-234387</u>   | <u>September 1, 1994</u> | (4) _____              | _____              |
| (2) <u>06-340136</u>   | <u>December 28, 1994</u> | (5) _____              | _____              |
| (3) _____              | _____                    | (6) _____              | _____              |

- a.  \_\_\_\_\_ (No.) Certified copy/copies attached.
- b.  Certified copy/copies previously filed on August 31, 1995 in prior U.S. Application No. 08 / 522,085, filed on August 31, 1995.  
series code ↑ ↑ serial no.
- c.  Certified copy/copies filed during International stage of PCT/ \_\_\_\_\_ / \_\_\_\_\_.
- d.  Priority is also claimed from PCT/ \_\_\_\_\_ / \_\_\_\_\_ filed \_\_\_\_\_.

4.  The prior application is assigned of record to NIPPONDENSO CO., LTD.  
by Assignment recorded August 31, 1995 Reel 7649 Frame 0908.  
Date

5.  Attached is an Assignment Cover Sheet.  
Please return the recorded Assignment to the undersigned.

6.  The power of attorney in the prior application is to G. Lloyd Knight, Reg No. 17, 698, Cushman Darby & Cushman Intellectual Property Group of Pillsbury Madison & Sutro, LLP.  
the address of whom is in item 8.

7.  Recognize as associate attorney Michelle N. Lester, Reg No. 32,331 - Cushman Darby & Cushman Intellectual Property Group of Pillsbury Madison & Sutro, LLP  
(Name and Reg. No.; Address as in item 8 unless otherwise indicated)

8. Address all future communications to Cushman Darby & Cushman Intellectual Property Group of Pillsbury Madison & Sutro LLP, Ninth Floor, East Tower, 1100 New York Avenue, N.W., Washington, D.C. 20005-3918.

9.  Amend the specification by inserting before the first line (in place of any comparable insert previously requested in any prior application) the sentence: This is a

continuation-in-part (CIP)  continuation  division  
of Application No. 08 / 522,085, filed on August 31, 1995, now abandoned, which was  
series code ↑ ↑ serial no.  
abandoned upon the filing hereof \_\_\_\_\_

10.  \_\_\_\_\_ (No.) Verified Statement(s) establishing "small entity" status under Rules 9 and 27  
a.  filed in above prior application (and hence applicable hereto)  
b.  attached.

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11. Requirement of Rul 62: It is understood that secrecy under 35 U.S.C. 122 is hereby waived to the extent that if information or access is available to any one of the applications in the file wrapper of a 37 CFR 1.62 application, be it either this application or a prior application in the same file wrapper, the Patent and Trademark Office may provide similar information or access to all the other applications in the same file wrapper.

12. Petition to extend the life of the above prior application to at least the date hereof

NOTE: (One box) [ XX ] is being concurrently filed in that prior application (Use Form CDC-111).  
 (must be) [ ] was previously filed in that prior application (Check length of prior extension).  
 (X'd) [ ] is not necessary for copendency (double check before X'ing this box).

13. [XX] Please enter the amendment previously filed on FEBRUARY 11, 1997  
 but unentered in the above prior application.

14. [ ] Attached: \_\_\_\_\_ sheet(s) per set of drawing of Fig(s) \_\_\_\_\_  
 [ ] 1 set informal; [ ] formal of size: [ ] A4 [ ] 11"

15. [ ] **PRELIMINARY AMENDMENT to be entered before fee calculation** (Do not make amendments here except cancellation of whole claims or multiple dependencies for purpose of reducing the filing fee per MPEP §§ 506 and 607; do not cancel all claims.):

16. [ ] Attached is a Rule 103(a) Petition to Suspend Action

17. Petition is hereby made requesting deletion as inventor(s) of the following who is/are not inventor(s) of the invention being claimed in this Rule 62 application:

1. \_\_\_\_\_  
 2. \_\_\_\_\_  
 3. \_\_\_\_\_  
 4. \_\_\_\_\_

18. [ ] This Rule 62 application is a continuation-in-part which discloses and claims additional matter and the amendments in attached Amendment are to be considered an integral part of the CIP ab initio.

a. [ ] New Declaration is attached.

b. [ ] This application is also filed under Rule 53(d) (without a Declaration) and hence filing fee is not enclosed.

**FILING FEE**

**THE FOLLOWING FILING FEE IS BASED ON THE CLAIMS  
 EXISTING IN THE PRIOR APPLICATION AS AMENDED AT 13 AND 15 ABOVE**

|                            | <u>see box 10 re:</u>   | <u>Large/Small Entity</u> | <u>Fee Code</u>           |
|----------------------------|---|---------------------------|---------------------------|
| 19. Basic filing fee       | ----- Design Appln.   | \$320/\$160               | \$ _____ (102/20)         |
| 20. Basic filing fee       | ----- Not Design Appln.   | \$770/\$385               | \$ <u>770.00</u> (101/20) |
| 21. Total Effective Claims | <u>17</u> minus <u>20</u> = <u>* 0</u> x \$22/\$11 = + _____ (103/20)       |                           |                           |
| 22. Independent Claims     | <u>5</u> minus <u>3</u> = <u>* 2</u> x \$80/\$40 = + <u>160.00</u> (102/20) |                           |                           |

\* If answer is zero or less, enter "0"

23. If any proper (ignore improper) multiple dependent claim is present, ----- add \$260/\$130 + \_\_\_\_\_ (104/204)

24. **TOTAL FILING FEE =** \$ 930.00

25. If "assignment" box 5 above is X'd, ----- add recording fee (\$40.00) + \_\_\_\_\_ (581)

26. If "petition" box 16 above is X'd, ----- add petition fee (\$130.00) + \_\_\_\_\_ (122)

27. **FEES ATTACHED =** \$ 930.00  
 (carry forward to line 36)

28.  Preliminary Amendment attached (to be entered after assigning Appln. No.)  
 (Do NOT X box 28 or 29 for CIP Amendment. See box 18)

29.  The following PRELIMINARY AMENDMENT is to be entered after assigning Appln. No.:

30.  ATTACHED DECLARATION

31. **ADDITIONAL FEE CALCULATION FOR  
PRELIMINARY AMENDMENT  
PER BOXES 28/29**

| Claims<br>remaining<br>after<br>amendment   | Highest<br>number<br>previously<br>paid for | Present<br>Extra          | Additional<br>Fee          |
|---|---|---------------------------|----------------------------|
| <u>Large/Small Entity</u>   |   |                           |                            |
| 32. Total Effective Claims  | minus ** _____                              | = * _____                 | x \$22/\$11 = \$ _____     |
| 33. Independent Claims  | minus *** _____                             | = * _____                 | x \$80/\$40 = + _____      |
| 34. If amendment enters proper multiple dependent claim(s) into this application for the<br>first time, ----- add \$260/130 (per application) |   |                           | + _____                    |
| 35.   |   | ADDITIONAL FEE            | \$ ____ -0- ____           |
| 36.   | plus FEE from item 27 on page 3             |                           | + ____ 930.00 ____         |
| 37.   |   | <b>TOTAL FEE ATTACHED</b> | <b>\$ ____ 930.00 ____</b> |

38.\*If the entry in the first space is less than entry in the middle space, the "Present Extra" result is "0".

39.\*\*If the "Highest number previously paid for" (see item 21 above) is less than 20, write "20" in this space.

40.\*\*\*If the "Highest number previously paid for" (see item 22 above) is less than 3, write "3" in this space.

41. **CHARGE STATEMENT:** The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (missing or insufficient fee only) now or hereafter relative to this application and the resulting Official document under Rule 20, or credit any overpayment, to our Account/Order Nos. shown in the heading hereof for which purpose a duplicate copy of this sheet is attached. **This CHARGE STATEMENT does not authorize charge of the issue fee until/unless an issue fee transmittal form is filed.**

Cushman Darby & Cushman  
Intellectual Property Group of  
Pillsbury Madison & Sutro LLP

1100 New York Avenue, N.W.

Ninth Floor, East Tower By Atty: Michelle N. Lester

Reg. No. 32,331

Washington, D.C. 20005-3918

Tel: (202) 861-3000

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Atty/Sec: MNL:sj

Tel.: (202) 861-3693

Sig: 

NOTE: No: 1: File this Request in duplicate with 2 postcard receipts (CDC-103) & attachments.

NOTE: N : 2: Is extension in parent necessary for copendency? **DOUBLE CHECK** Item 12 above.